G. R. S. 58]

Previous references

File No 53-12.

1912-13

(Municipal)

Serial Nos 1.2 6.12
15 of 17

Later references

Rel 53 of 12 Ch 16+18

Rels 7-15 88 10, 18, 21, 31 + 88 B Feby 1916

Rel 175-17 88 1-2 D Appeal Cp

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1.2 6 12-15 of 17

Part B for May 1913

SUBJECT

Services of the Govt Advocate in Appeal Suit no R4 115 of 1911-12 on the file of the Chief Court

---

Sl.1 From the chairman Mysore city Improvement Trust Board no 2778 3/7/12. Requests sanction for engaging the services of the Govt Advocate to conduct the defence in Appeal Suit no R4 115 of 1911-12 in the Chief Court (Ryasami Mudr Vs Land Acquisition Officer Mysore city Improvement Trust Board

GPB—5,513—22-10-13

2 Lr no 291-398/7/12 Sanctions the proposal & requests the chairman to report the result of the appeal in due course

SL6 Letter no 314 & 5/9/12 from the chairman States that the case has been adjourned to the 1st nov 1912

SL12 Letter no 345 & 21/11/12 from the chairman regarding Imprt Inst Board. Reports that the case has been again adjourned to the 16th Dec 1912

SL15 Letter no 398 & 18th April 1913 from the chairman. Reports the result of Regular Appeal no 115 of 1911-12 on the file of the Chief Court together with a copy of the judgment delivered in the case.

SL17 Lr. no 8897 & 15/7/13 Records the receipt

Kyneyn
Attended to
by Urgent Woman Records
6/8/13

GRS 11] 1912-1913 110

GENERAL AND REVENUE SECRETARIAT

(Rb.)

NOTES

File No 55-/2

FILE HEADING

Acquisition of properties for public purposes in the Mysore City

From

The Chairman, Mysore City Impt. Trust Bd.

No 277 Dated 3-7-12 Received 5-7-1912

Diary No 110	Enclos 3	Spare Copies —	Serial No 1

BRIEF ABSTRACT OF LETTER

Requests sanction for engaging the services of the Govt. Advocate to conduct the defence in Appeal Suit No. R.A. 115 of 1911-1912 in the Chief Court (Syadami Naidu VS Land Acqn Officer, Mysore City Impt. Trust Board)

NOTES AND ORDERS

As the case is posted to the 10th inst. for hearing, the Chairman requests early orders. Mr. M.C. Rangaiengar, Advocate, has given a report of the case containing a statement of the facts and law as soon may the Govt. Advocate be requested to

Chairman

NOTES—First Sheet

GPB—80,000—12 9 11

R. S. 12]

General and Revenue Secretariat | Rl File No. of 1912

Serial No.	
	Chairman's proposal be sanctioned? Draft submitted.
	6.7.12
	2 As the case seems to be an intricate one, involving points of law, the proposal of the Chairman may be sanctioned. Draft also is submitted for approval. 2nd (a) 6.7.12
	3 Draft approved by Hl Govt. 6.7.12
	4 Issue 8/7
2	5 S.O. No. 291-3 dated the 8th July 1912. Sanctions the proposal and requests the Chairman to report the result of the appeal in due course.
6	6 Letter No. 3116 D. 5-9.1912 from the Chairman. States that the case has been fixed for hearing on the 30th inst. adjourned to the 10th Oct. 1912

NOTE—Contin. sheet.

GPB—65,000—17-4-12.

(3) 1921

3

G. R. S. 12]

General and Revenue Secretariat.

File No. 55 of 1912

Serial No.	
	Tribunals. More papers may be filed and reminders issued if found necessary. After the 7th Nov: for a report of the result of the Appeal filed 50 16/9/12
12	Letter No. 365 Dy 24.11.12 from the Chairman, Imperial Agl Research Inst: Reports that the Case has again been appointed to the 10th Dec: 1912
15	Letter No. 398 dated the 18th April 1913 from the Chairman. Reports the result of Regular Appeal No. 115 of 1911-12 on the file of the Chief Court, together with a Copy of the judgment delivered in the Case.
	Draft according the report is subt. to appl or other orders 50 24/4/13 (Sd) 29/4/13
12	Draft approved as noted 29/4/13 29/4 30/4
B	Issue 30/4/13

NOTE—Contin. sheet.

GPB—63,000—17-6-12.

[4 R S 12]

General and Revenue Secretariat | ML File No 55 of 1912

Serial No	
17	14 G O. No 8897 Dt 3.5 1912 — Records the report &

NOTE—Contn sheet

G I P—65 CGC—1 C 12.

190

From The Land Acquisition Officer,
City Impt. Trust Board,
Mysore.

To
The Secretary to the Govt.
of H.H. the Maharaja of Mysore
Gen. & Rev. Departments.

Dated 3rd
Despatched 4th } July 1912
Received

General No 277
No

Enclosure No 3

Requesting sanction to engage the Government Advocate to conduct the defence in Appeal Suit No R A 115 of 1911-1912 in the Chief Court of Mysore, P Iyyasami Modaliar VS the Land Acquisition Officer, City Improvement Trust Board, Mysore

(Through the Chairman; City Improvement Trust Board, Mysore.)

M-211

Urgent Docket No. 110

Mysore City Improvement Trust Board Office,
Dated, Mysore, 3rd July 1912.

1912-1913
SECTION I
From
File No. 55-12
GENERAL No.

From

M.G.Krishnaswmi Rao, Esq., B.A.,
Land Acquisition Officer,
City Improvement Trust Board,
Mysore.

To,

K.R.Srinivasa Iyengar, Esq., M.A.,
Offg. Secretary to the Government of
His Highness the Maharaja of Mysore,
Gen. & Rev. Departments.

Sir,

With reference to the acquisition of a portion of Survey No.429(3 acres, 15 guntas and 44 square yards) in -- Block 81, Krishnaraj Mohalla, Mysore, notified in the Govern--ment Gazette dated the 1st December 1904 for being acquired for purposes of City Improvement Trust Board, Mysore, I have the honour to state that a sum of Rs.390-3-0 was awarded by me as Land Acquisition Officer under Government Notification No.3832/M1.67-09-34 dated the 8th November 1910, as compensa--tion for the same under Sec.11 of the Land Acquisition ---- Regulation No.VII of 1834, on the 17th December 1910. As -- the persons known to be interested in the said property, viz.

viz., P.Iyyasami Modaliar, Krishnaraj Mohalla, Mysore, and W.Madiah, son of Akkiangadi Marianna, Santhepet, Mysore, did not receive payment till the 15th April 1911, the said sum was deposited in the Court of the Subordinate Judge of Mysore under Sec.31(2) of the Land Acquisition Regulation.

2. This matter was taken on the file of the Sub-Judge's Court, Mysore, as O.S.No.48 of 1910-1911 and it was ordered by the Court that the 1st claimant P.Iyyasami Modaliar should receive Rs.136-10-0 and that the 2nd claimant Madiah should receive the balance, viz., Rs.253-9-0.

3. Iyyasami Modaliar, the 1st claimant, has now preferred an appeal to the Chief Court of Mysore, against the said order of the Sub-Judge of Mysore in O.S.No.48 of 1910-1911 on the grounds set forth in the accompanying copy of the Appeal Memo in R.A.No.115 of 1911-1912 in the Chief Court of Mysore.

Confidential No 84

4. A report of the case in original containing a statement of the facts and law at issue, is submitted herewith for information and obliging return when done with.

5. As the hearing of this case in the Chief Court is posted to the 10th of this month, I beg that you may be so good as to obtain and convey the very early sanction of

of Government to engage the Government Advocate to ---
appear on behalf of Government in the case and conduct
its defence.

6. A list of papers submitted herewith for ----
reference, is enclosed.

I have the honour to be,
Sir,
Your most obedient servant,

M K Krishnaswamy Rao

Vice President & Land Acquisition Officer,
City Improvement Trust Board, Mysore.

Forwarded.

Chairman.

G.R.S 28]

4

File No 55-12

Serial No 2

Diary No of letter replied to 1179

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT
(Pb.)

Date of issue 6.7.12

Signed by Mr SPR

READ--

Letter No 277 dated the 30th July 1912 from the Chairman, Mysore City Improvement Board, requesting sanction to engage the services of the Govt Advocate to appear on behalf of the Govt and conduct the defence in the appeal suit No R. A. 115 of 1911-1912 on the file of the Chief Court of Mysore (P. Ayyaswami Mudaliar

ORDER--

No

Govt Advocate to appear on behalf of the Govt and conduct the defence in the appeal suit No R. A. 115 of 1911-1912 on the file of the Chief Court of Mysore (P. Ayyaswami Mudaliar

vide 19

SUBJECT

GPH 10,000--19-4-10

Vs The Land Acquisition Officer,
Neyveli City Limits Land Board)

Order thereon 29.3.12

Sanctioned.

2) The Chairman is requested
to request the records of the Board appeal
in the Case.

Sect

2, The Chairman, Neyveli City
Limits Land Board, relating
the enclosures
Govt Account
Confidential

Jv 2314/6 9 1912

6

MYSORE CITY IMPROVEMENT TRUST BOARD
CHAIRMAN'S OFFICE,
Dated, Mysore, 5th Septr. 1912.

From 13 2nd 55-12 6 Tx

K.Krishna Iyer, Esq.,

Chairman of the Board of Trustees,
Mysore City Improvements

K.R.Srinivasaiengar, Esq., M.A.,

Secretary to the Govt of H H the Maharaja
of Mysore, Gen and Rev Departments

SIR,

With reference to para 2 of Government Order No.291-8/Ml. 55-12-2 dated the 8th July 1912 and subsequent reminder thereto, No.1839 dated the 24th August 1912, calling for a report on the result of the Appeal Suit No.R.A.115 of 1911-12 on the file of the Hon'ble Chief Court, P.Iyyasami Modaliar VS the Land Acquisi--tion Officer, Mysore City Improvement Trust Board, I have the honour to state that the said appeal which had been posted for hearing on the 30th ultimo, has been adjourned to the 1st of -- November 1912.

I have the honour to be,
Sir,
Your most obedient servant,

For Chairman.

1912

From

The CHAIRMAN of the Board of
Trustees for the Improvement
of the City of Mysore

To

The SECRETARY to the Govt. of
His Highness the Maharaja of
Mysore, Gen and Rev Depts

Dated
Despatched } Septem--Gen-1912
Received

General No. 314.

Enclosures

SUBJECT

Stating that Appeal Suit No:R.A 115 of 1911-1912 on the file of the Hon'ble Chief Court, P.Iyyasami -- Modaliar VS the Land Acquisition -- Officer, City Improvement Trust Board, stands adjourned to 1st November -- 1912.

7

No 3145
22 11 12

MYSORE CITY IMPROVEMENT TRUST BOARD
CHAIRMAN'S OFFICE,

Dated, Mysore, 21st November 1912

DIARY No 2937

FROM

K.Chandy, Esq., B.A.,

Chairman of the Board of Trustees,
Mysore City Improvements

To

K R.Srinivasaiengar, Esq , M A ,

Secretary to the Govt of H H the Maharaja
of Mysore, Gen and Rev Departments

SIR,

In continuation of my letter No 314 dated the 6th September 1912 and with reference to your reminder No 3565 -M1 dated the 18th November 1912, I have the honour to -- report that the Appeal Suit No R A 115 of 1911-1912 on the file of the Hon'ble the Chief Court, P Iyyasami Modaliar VS the Land Acquisition Officer, Mysore City Improvement Trust Board, has again been adjourned to the 16th December 1912

I have the honour to be,

Sir,

Your most obedient servant,

for Chairman

1912.

From

The CHAIRMAN of the Board of
Trustees for the Improvement
of the City of Mysore

To

The SECRETARY to the Govt of
His Highness the Maharaja of
Mysore, Gen and Rev Depts

Dated 21/11 } November 1912
Despatched 22nd }
Received
General No. 345
Enclosures

SUBJECT

Reporting that the Appeal Suit No.R.A.115 of 1911-1912 on the file of the Hon'ble the Chief Court, P.Iyya-sami Modaliar Vs the Land Acquisi-tion Officer, City Improvement Trust Board, has again been adjourned to the 16th December 1912.

CSPM—50—11-8-13.

IV 19/4 [illegible] 21.4.13

1913

From

The CHAIRMAN of the Board of
Trustees for the Improvement
of the City of Mysore

To

The SECRETARY to the Govt of
His Highness the Maharaja of
Mysore, Gen and Rev Depts

Dated } 18th April 1913
Despatched }

Received

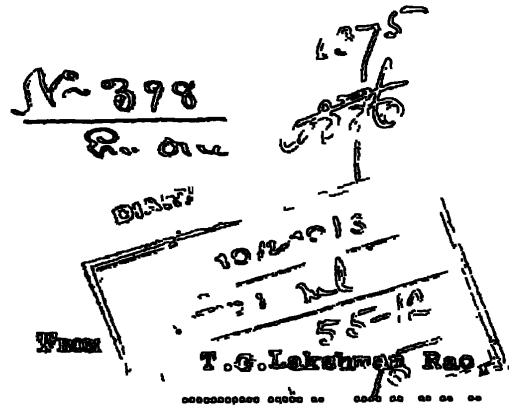
General No 398

Enclosures One

SUBJECT

Communicating the result of --
Regular Appeal No 115 of 1911-12 on
the file of the Hon the Chief Court
of Mysore, Aiyasami Modaliar Vs the
Land Acquisition Officer, City ---
Improvement Trust Board, Mysore

GBPM—300—11 6 1912



Mysore City Improvement Trust Board
Chairman's Office,

Dated, Mysore, 18th. April 1913.

From T.G.Lakshmana Rao, Esq., L.C.E.,

Chairman of the Board of Trustees,
Mysore City Improvements

To F.R.Srinivasaiengar, Esq., M.A.,

Secretary to the Govt. of H H the Maharaja
of Mysore, Gen and Rev Departments

Sir,

In reply to your letter No.291-3/M1.55-12 dated the 8th July 1912, I have the honour to report that in the Regular Appeal No.115 of 1911-1912 on the file of the Hon. the Chief Court of Mysore, judgment was delivered on the 2nd Instant. A copy of the judgment is enclosed herein for the perusal of ... Government. It will be seen therefrom that the appellant ... Aiyasami Mudaliar's contention as to the amount of compensation awarded for the property in question was held to be of no ... avail as there was no application from him to refer the matter to Court under Section 18 of the Land Acquisition Regulation to authorize the Acquisition Officer to do so, that the proceed-ings of the Sub-Judge's Court in O.S.No.48 of 1910-1911 were set aside as being without jurisdiction and void, and that the respondents, viz., (1) the Land Acquisition Officer of the ...

9

the Mysore City Improvement Trust Board and (2) Wadiah are ---
ordered to bear the appellant's costs in this appeal

I have the honour to be,

Sir,

Your most obedient servant,

Lakshmanarao

Chairman.

Enc to rul 55-2/d 15-

IN THE CHIEF COURT OF MYSORE AT BANGALORE. 10

Wednesday, the 2nd day of April 1913.

Present.

Mr. Justice P.S.Krishna Rao, Rao Bahadur, Chief Judge,

and

Mr.Justice E.F.Wallace.

Regular Appeal No.115 of 1911-1912.

Aiyasami Mudaliar.... ..... .(Claimant No.1)..Appellant

VS

1. Land Acquisition Officer, Mysore City Improvement Trust Board, Mysore, (Mr.M G.Krishnasami Rao, B.A., for the time being). Defendant.)Respondents

2. Wadia .... (Claimant No.2)

Appeal against the decree of the Subordinate Judge of Mysore in O.S.No.48 of 1910-1911

This appeal coming on for hearing on Friday, the 29th day of March 1913, the Court delivered the following -

J U D G M E N T

1. This is an appeal against a " decree " of the Subordi--nate Judge, Mysore, in a Land Acquisition case It is ---- ndcessary to briefly state the facts of the case

2. On 15-4-1911, the Land Acquisition Officer, City ---- Improvement Trust Board, Mysore, forwarded under Section 31(2)

Land Acquisition Regulation, a sum of Rs.390-3-0 to the --- Subordinate Judge's Court for deposit. With the money was sent a letter stating that this sum had been awarded on 17-12-1910 as compensation for 8 acres and odd, Rs.136-10-0 having been awarded to P.Aiyasami Modaliar (present appellant) and Rs.258-9-0 to M.Madaiya, that registered notices had been sent to these persons, and that as they "have not received payment up to now", the money was forwarded for deposit, and intimation of "the final disposal of the amount" On 17-4-1911, evident--ly on receipt of the amount and letter, the Subordinate Judge treating the case as a reference for decision under the Regula--tion, gave it an O.S. number and issued notices to the 2 --- claimants. 1st claimant appeared and questioned the jurisdic--tion of the court to entertain such a "reference" under Sec 31(2), as he had disputed the sufficiency of the compensation The Subordinate Judge overruled this objection, and proceeded to pass a "decree" awarding to each claimant the amount ---- awarded to him by the Acquisition Officer The 1st claimant has appealed to this court, chiefly on the question of juris--diction.

3. Appellant's contention has reference to the fact that -- there was no dispute as to the apportionment of the compensa--tion, but only as to its amount. His contention on this ---

this ground cannot avail, if, as it is practically admitted, the claimants did "not consent to receive" the compensation It is true that the Acquisition Officer's letter of reference does not as it ought to have done, categorically state that the claimants did not consent to receive the amount, but the ---- appellant's letter of 31-12-1910 to that officer shows clearly that he did not so consent We should not therefore insist on a technicality of this sort, and we hold that appellant's refusal to receive the amount was sufficient to justify the Acquisition Officer proceeding under Section 31(2)

4. But a more important question arises, which appellant has not noticed, viz , whether a deposit of a compensation --- amount in Court under Section 31(2) confers any jurisdiction on the court at all to adjudicate on the claims of claimants, such as is conferred by a reference under Section 18 or under section 30, and whether the lower court therefore had any --- jurisdiction to take any judicial proceedings in the matter

5 When this point was raised, appellant, whose one aim it is to have the question of the <u>amount</u> of compensation ---- reopened, contended that his letters of 20-12-1910 and 31-12-1910 to the Acquisition Officer amounted to an intimation to him to make a reference under Section 18 This matter may be

13

be shortly disposed of by saying that we cannot read any such intimation into either letter, and 30 Bom. 275 and 16. Wy. C. C.R.88 are authorities for holding that a specific application for a reference under Section 18 must be made, before the --- Acquisition Officer has authority to make it, or the Civil Court jurisdiction to entertain it We are clear that there was no application to refer the matter under Section 18.

6. Admittedly there was no reference under Section 30 and no case arose within the terms of that Section. So we are left with the question whether Section 31(2) contemplates any ---- reference to the Civil Court for its adjudication in the matter of the claims to compensation.

7. Clearly it does not do so in terms There is no --- phrase such as "for the determination of the Court" or for "the decision of the Court" as in sections 18 and 30, and we do not think that the legislature would have left such a matter as the jurisdiction of a Civil Court in an executive matter to be obscurely gathered by inference in the case of one Section of the Regulation when it is clearly conferred by two other Sections. Section 31 is under Tort V headed "payment", part III, "reference to Court" and part IV "apportionment of compen--sation" being concluded. Section 31 merely directs the mode in which payment is to be made by the Acquisition Officer, whe-

when owing to certain circumstances detailed, he cannot pay the compensation amount directly to the claimants. He is then -- directed to deposit the money in the Civil Court, and in the absence of any rules or regulations to the contrary, he is and remains in the position of an ordinary depositor of money in the Civil Court.

6. Sections 32 and 33 do, no doubt, as pointed out by the Government Advocate, confer on the Civil Court certain powers in certain cases of investing the money so deposited and paying out the interest, and in one case, viz , where payment by the Acquisition Officer to the party has to be withheld because -- there was no one who had power to alienate the land acquired, the court is given authority to pay over the principal to the person finally "absolutely entitled thereto" It is not how--ever stated that the court is the authority to decide who is the person absolutely entitled thereto Nor beyond these --- specific powers in specific cases, is any general sort of ---- authority conferred on the court to determine under Section 31 (2) any questions at issue between the claimants and the ---- Acquisition Officer It is not even stated what is finally to happen to the money so deposited, or who is the authority to pay it out No doubt the Regulation is defective on these points, but it is no part of the duty of the Judicature to --

13

to supply on general principles, which may be quite erroneous or foreign to the intention of the legislature, deficiencies in legislative enactments. We can find no reported cases exactly on the point. But in 14 Cal. 423, which was decided under the old British India Land Acquisition Act X of 1870, it was laid down that that Act conferred a special and limited -- jurisdiction to decide only those questions with which the Act enables them to deal This Act X of 1870 did not contain any Section corresponding to Section 31 of the present Regulation, but contained Sections 15 and 38 corresponding to the present Sections 18 and 30. The learned Judges in 14 Cal 423 held -- themselves bound within the provisions of these two sections only, and the legislature, when enacting the present British India Act I of 1894 which Regulation VII of 1894 follows with this decision before them, did not in terms extend the powers of the Civil Court any further except in such cases as are --- dealt with in Sections 32 and 33 The Select Committee's -- Report on Section 31 indicates that the object of the Section was to avoid claims for interest being put in against Govern- -ment. and nowhere raises any idea that the Section was ----- intended to confer jurisdiction on a Civil Court The tribunal of appeal in Bombay has apparently in at least one case report- -ed on P 136 of Campbell's Commentary on the Land Acquisition

4513 18

17

appellant's costs in this appeal.

(Sd) P.S.Krishna Rao,
Chief Judge

(Sd) E W.Wallace,
Judge.

"C O P Y"

Chairman

G.R.S 28]

File No 55-12
Serial No 17

Diary No of letter replied to 6375

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT
(Mb.)

Dated the 28. 4. 1913

READ— Correspondence ending with letter No 298 dated the 18th April 1913 from the President and Inspector of Forests, Chairman, Mysore City Improvement Board

ORDER THEREON—No.

Copy with, requesting the records of regular appeal No 115 of 1911-1912 on the file of the Hon. the Chief Court of Mysore

Date of issue 2.5.13

Signed by Mr TGR

SUBJECT

(Jayaramaiah Madhusudan V/S the Land Acqn Officer, Mysore City Urban Land Board and another)

together with a copy of the judgment delivered in the case.

Order thereon 8897 mb 55-12

Recorded

3.5.13.

2/4/13

2

The Chairman, Mysore City Urban Land Board

GPB—20,000—8-10-11

2/5/13